



Legislative Testimony
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Written Testimony Opposing House Bill 6385, An Act Concerning State Agency Complaints Regarding Individuals or Groups to Social Media Platforms

Senator Flexer, Representative Blumenthal, Ranking Members Sampson and Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee:

My name is Jess Zaccagnino, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am writing to testify in opposition to House Bill 6385, An Act Concerning State Agency Complaints Regarding Individuals or Groups to Social Media Platforms.

When a public employee or agency uses social media to inform the public about government work, solicits public comments about government issues, and identifies the media with the government, then the media is being used for government purposes. In those situations, members of the public have the right to access the material and to make their views known—including views that express disagreement or criticism. If a public official is using a social media account as a government actor and blocks critics or reporters from seeing what that account has to say, they are most likely running afoul of the Constitution.

The right to criticize the government is the heart of the First Amendment, and courts have recognized that blocking people from government social media accounts as infringing on that right. In 2019, Connecticut's regional federal appeals court, the United States Court of Appeals for the Second Circuit, affirmed an earlier ruling that

President Trump violated the First Amendment by blocking critics on Twitter.¹ The Second Circuit is not alone: a different federal appeals court ruled that a chair of a Virginia board of supervisors could not block people from the comments portion of her Facebook page because of their political views.² The comments sections of a public official's Facebook page, the court ruled, count as a "public forum," just like a town meeting. Therefore, comments must be open even to people who disagree with the official's position.

The First Amendment is clear. Government actors and agencies cannot and should not censor people for disagreeing with them, whether that is at a town meeting, on a public sidewalk, or online. Creating a process that requires state agencies to hold a hearing prior to blocking or reporting an individual group still allows for government actors and agencies to censor people for disagreeing with them. As such, the ACLU-CT opposes this bill, and urges this Committee to do the same.

¹ Knight First Amendment Institute v. Trump, 928 F.3d 226 (2019).

² See, e.g., Vera Eidelman, *Court Rules Public Officials Can't Block Critics on Facebook*, ACLU (Jan. 9, 2019), <https://www.aclu.org/news/free-speech/court-rules-public-officials-cant-block-critics-facebook>.